

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

TYLER C. LEARY,)
)
Plaintiff,)
)
v.) **2:22-cv-00256-JDL**
)
WILLIAM L. KING, JR., et al.,)
)
Defendants.)

**ORDER ACCEPTING THE RECOMMENDED DECISION OF THE
MAGISTRATE JUDGE**

Defendant William L. King, Jr. filed a Motion to Dismiss Plaintiff Tyler C. Leary's First Amended Complaint (ECF No. 30) for failure to state a claim on November 20, 2023 (ECF No. 32). Leary opposes King's motion (ECF No. 37). United States Magistrate Judge John C. Nivison filed his Recommended Decision on King's motion on February 6, 2024 (ECF No. 42), pursuant to 28 U.S.C.A. § 636(b)(1)(B) (West 2024) and Federal Rule of Civil Procedure 72(b), recommending that the Motion to Dismiss should be granted. The Magistrate Judge's Recommended Decision provided notice that a party's failure to object would waive their right to *de novo* review and appeal. The time within which to file objections has expired, and no objections have been filed.

I have reviewed and considered the Recommended Decision, together with the record. I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in his Recommended Decision, and I determine that no further proceeding is necessary.

It is therefore **ORDERED** that the Recommended Decision of the Magistrate Judge (ECF No. 42) is hereby **ACCEPTED**, and Defendant William L. King, Jr.'s Motion to Dismiss (ECF No. 32) is **GRANTED**.

It is further **ORDERED** that no certificate of appealability should issue in the event the Plaintiff files a notice of appeal because he has not made a substantial showing of the denial of a constitutional right as required under 28 U.S.C.A. § 2253(c)(2) (West 2024).

SO ORDERED.

Dated this 16th day of April, 2024.

/s/ **JON D. LEVY**
U.S. DISTRICT JUDGE